

# **EXHIBIT 8**



Alban's, through which a number of co-ops work together to market their milk, as well as the milk of a number of affiliated co-ops and independent farmers. I also have a seat on the corporate board of DFA. Co-ops are democratic organizations, and I am proud that my fellow dairy farmers have chosen me to serve in these various capacities over the years, especially my last ten years as first Vice-President and now President of the St. Alban's board. In fact, unlike some larger co-ops, we do not have districts, but rather elect our entire dairy farmer leadership on an at-large basis representing the entire co-op at an annual meeting that all of our members are encouraged to attend.

3. The two main co-ops in Vermont are St. Alban's and Agri-Mark. St. Alban's at this time has over 400 hundred producers. Dairy farmers join St. Albans in part for the financial returns it offers—St. Alban's milk checks tend to be higher than those of other co-ops—but also for the services the co-op provides, the transparency in how our co-op does business, and the easy access our members have to local management and local dairy farmer leadership. I know our members also value and take advantage of our store system, which provides both financing and some group purchasing of fertilizer, grain, and the like. There are also other companies from whom our members can buy, where the co-op makes a deal with the vendor whereby we guarantee payment and the members get discounts. St. Alban's members also benefit from the co-op's ownership of a processing plant in St. Alban's, Vermont, to which our members ship approximately half of the milk they produce.

4. As I noted above, St. Alban's is one of the three co-ops that owns DMS. I was on the St. Alban's Board when we decided to join DMS, and I supported that decision. As processors consolidated more and more, we felt that St. Alban's needed to be part of a bigger organization if we were going to continue to succeed in the fluid (Class I) side of our business.

We explored working with Agri-Mark, but ultimately decided DMS was a better approach for us. We appreciated the fact that DMS valued and respected our autonomy, and that we could work collectively within the DMS structure with respect to our Class I sales, but still retain our identity and our independence. About 40% of our total volume is marketed as fluid or Class I milk. St. Alban's could leave DMS at any time if it wanted to, but we have not wanted to and we believe the collaboration with Dairylea, DFA, Land-O-Lakes, and the other co-ops that market their milk through DMS is extremely beneficial for our members. Among other things, our dairy farmers have received higher premiums for their milk by working with DMS.

5. Because we are believers in the value of dairy farmers and co-ops working together, we were very active in the formation of GNEMMA, the Greater Northeast Milk Marketing Agency, which is a common marketing agency that includes not only the co-ops that market their milk through DMS, but also Agri-Mark and Upstate Niagara. The primary driver of forming GNEMMA was our concern about premiums for rBST-free milk, which more and more processors were starting to demand. I believe GNEMMA has been very successful at enabling its member co-ops to work together, rather than undercutting each other, and by doing so to gain higher premiums for rBST-free milk for dairy farmers in the northeast.

6. I have seen Dean's Proposed Settlement with the Plaintiffs in this lawsuit, and I think it is very threatening for the dairy farmers in St. Alban's and the other co-ops who work with and through DMS. While it appears to me that my service on the Board of DMS means that I am not technically part of the class as defined in the Proposed Settlement, I will nonetheless be affected by the proposal. More importantly, the dairy farmers I represent through my service on the St. Alban's Board (and the DMS and DFA Boards) are going to be significantly and

negatively impacted if this deal is approved as written, and I submit this declaration to as part of trying to fulfill my responsibility to my fellow St. Alban's dairy farmers.

7. The main concern I have is about Section 9.2 of the Proposed Settlement (Section 9.2) that, as I read it, says that Dean could stop buying up to 60 million pounds of raw milk a month from dairy farmers who market through DMS at three major Dean plants, and start buying it instead from dairy farmers who do not market their milk through DMS. That section also says that Dean can by itself determine the "competitive market price" at which it offers to buy this 60 million pounds of milk. I do not believe this provision will benefit St. Alban's members or any of the thousands of dairy farmers like me who market through DMS, and it could lower prices for all dairy farmers.

8. First, DMS could have to find customers for that 60 million pounds a milk a month, which is a substantial block of milk, because Dean will now be buying that milk from someone else, regardless of whether DMS offers better terms or not. I am concerned about how DMS will be able to find a new home for that much milk without having to cut its prices and about whether having to make big changes in where our milk is going will lead to higher hauling costs and less net money for all of us. This provision seems to undercut the very reasons why we at St. Alban's decided to join DMS in the first place—to work with together with other co-ops to make sure that we were able to serve an increasingly consolidating marketplace, and to do so in a way that will protect prices and premiums for dairy farmers.

9. That second problem is magnified by the Proposed Settlement's provision for Dean announcing what it has decided will be considered the "competitive market price" for milk. Dean is going to announce that the "competitive price" for milk is *less than* they are currently paying St. Alban's dairy farmers and the other dairy farmers who market through DMS that are

currently serving these three plants. Customers always want to pay less for what they're buying, and I don't see any reason why Dean would be any different. Big companies also want to use their position in the marketplace to drive down their costs—that's why dairy farmers working together in co-ops and common marketing agencies like DMS and GNEMMA is so important. When Dean uses this provision to say that the "competitive market price" for the milk it buys under Section 9.2 is lower than what DMS had been charging them, as I am sure they will, then I expect two other problems will flow from that: (1) they will end up pressing us to lower the price on the DMS milk we are still shipping to those plants, and (2) we will still have the responsibility of balancing the milk at those plants, but we will not have the volume we used to have to recover the cost of that balancing.

10. One of the most important services co-ops provide to their customers is balancing the supply and demand for milk. Milk demand fluctuates by day of the week, by season, by holidays, and so on. Milk supply also fluctuates, but it does not naturally go up and down in the same way as demand does. Someone has to be responsible for making sure plants get the milk they want, but only the milk they want, in the face of these ups and downs in demand and supply. And that's costly, whether it is the cost of finding extra milk when milk is short, or the cost of moving milk to other, generally less profitable uses when milk is long. Co-ops charge for that service, and that is part of the premium we earn on our dairy farmers milk, although coops are generally unable to collect from processors what the full costs of balancing really are. That is another reason why Dean has to be planning to pay less for milk under Section 9.2 than they are currently paying, since I don't see how the farmers who provide that 60 million pounds will be responsible for balancing their needs at those three plants. To the extent that

responsibility continues to fall on us, we will have the same old cost we always had, but less milk volume to recover that cost.

11. It won't take much of a price decline or a cost increase for St. Alban's dairy farmers to lose all or virtually all of the supposed benefits of the money Dean is to pay under the terms of the Proposed Settlement. If prices decline and costs go up by even 10-12 ¢/cwt, which is a conservative estimate, then it looks to me as if our St. Albans farmers will, on balance, end being hurt by the Proposed Settlement.

12. The other issue I see with Section 9.2 is the question of where Dean will attract that volume of milk. It appears to me that under Section 9.2, in order to be able to sell Dean any part of that 60 million pounds, a dairy farmer or co-op cannot work with or market through DMS. As an owner of DMS, right now all of our St. Alban's members are marketing their Class I milk through DMS and would as a result not be eligible to make any of these sales. Because most dairy farmers in Vermont are members of co-ops, to raise that much milk Dean will have to actively seek out dairy farmers and try to encourage them to drop their affiliations with their co-ops if those coops, like St. Albans, market through DMS. They will be able to find some dairy farmers, I'm sure, who given where their farms are located and how much milk they produce, may be able to take less money than Dean is paying DMS, and still possibly come out ahead in the short-run because they will no longer share in the costs of balancing the market like they did when they were co-op members. That looks to me like it's designed to take us back into a world of dairy farmers fighting dairy farmers, *while processors benefit from paying lower prices.*

13. As I understand it, this Proposed Settlement was negotiated by class representatives and lawyers who are supposed to represent all of the dairy farmers within the proposed class—those dairy farmers that produce and pool their milk on Federal Order 1. I don't

know the lawyers involved in this case, but if they understood how the marketplace works, they could not have thought that Section 9.2 was a good deal for the farmers in St. Alban's and the other co-ops who market through DMS. The Proposed Settlement that these class representatives and their lawyers have negotiated takes sales away from the St. Alban's dairy farmers like the hundreds of farmers I represent, turns those sales over to someone else, threatens to help undercut our organization, and pits dairy farmer against dairy farmer with the end result that prices are bound to fall. That is going to hurt everyone, but it is obvious that the biggest losers will be the dairy farmers in St. Alban's and the other DMS co-ops who will lose substantial milk sales to Dean and substantial dollars as prices decline and costs increase. Any class representative or lawyer who represented the St. Alban's dairy farmers and the other dairy farmers who market their milk through DMS should have understood this.

14. We choose to sell our milk through DMS because we believe that co-ops working together through DMS helps dairy farmers get a better price for their milk and market their milk at lower cost. I believe that the class representatives and lawyers who agreed to limit DMS sales in the way that Section 9.2 does were not looking out for the interests of St. Alban's dairy farmers, or the hundreds of other dairy farmers who market through DMS.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on January 15, 2011, in Fairfax, Vermont.

  
 Ralph McNall